

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORENO VALLEY UNIFIED SCHOOL
DISTRICT, CALIFORNIA SCHOOL FOR
THE DEAF.

OAH CASE NO. 2014020430

ORDER GRANTING MOTION TO
DISMISS ISSUE

On February 11, 2014, Student filed a Due Process Hearing Request (complaint) naming Moreno Valley Unified School District (District) and California School for the Deaf (CSFD) as respondents. The complaint requested independent educational evaluations as its first issue. As issue two, the complaint alleged violations of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), the Americans with Disabilities Act (ADA), and state civil rights statutes. On February 26, 2014, District moved to dismiss Student's issue two as outside the jurisdiction of the Office of Administrative Hearings (OAH). On March 7, 2014, CSFD joined in District's motion. OAH has received no opposition. As discussed below, the motion is granted.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973, the ADA, or state civil rights codes.

ORDER

1. The Motion to Dismiss is granted as to Issue two.
2. The matter will proceed as scheduled as to the remaining issue.

DATE: March 7, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings